

CHAPTER NO. 191

SENATE BILL NO. 2093

By Henry, McNally

Substituted for: House Bill No. 2019

By Fitzhugh, Coleman

AN ACT to enact the Local Government Modernization Act of 2005.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. In order to ensure local governments in Tennessee maintain adequate accounting records and comply with generally accepted accounting principles for financial accounting and reporting, there is hereby created the "Local Government Modernization Act of 2005."

(1) The comptroller of the treasury shall determine those local governments which are in noncompliance on or after June 30, 2004, with the accounting and financial reporting model for financial statement presentation established by the Governmental Accounting Standards Board (GASB) in statement 34. Those governments determined to be in noncompliance with statement 34 shall be required to submit an implementation work plan to the comptroller of the treasury on a date prescribed by the comptroller. The chief executive officer of the local government shall serve as the primary person with authority and responsibility for development and submission of the local government's work plan which shall include the primary government and all component units of the local government. The work plan shall include due dates and responsible persons or parties for implementation. The work plan shall not include an effective implementation date of later than June 30, 2008.

(2) If a local government fails to submit a work plan by the date prescribed, the comptroller shall provide assistance to the local government to develop a work plan within sixty (60) days of the date the plan should have been filed. If the local government does not agree to a work plan within this sixty (60) day period, the comptroller shall provide a work plan that meets the requirements for implementation by June 30, 2008.

(3) If a local government fails to implement accounting and financial reporting standards as required by GASB on or after June 30, 2008, as determined by the comptroller the following penalties or restrictions shall be imposed on the noncomplying local government.

(A) The local government shall not be eligible for economic and community development grants funded by the state and administered by the Department of Economic and Community Development as mutually agreed upon by the comptroller and the Commissioner of Economic and Community Development, and bank excise tax and hall income tax revenues which are collected and distributed by the state shall be reduced to an amount agreed upon by the comptroller and the Commissioner of Revenue, but not to exceed 5% of the total amount due the local government in any fiscal year, until the local government is in compliance with accounting and financial reporting standards required by GASB. If a school district (defined as a county, municipal or special school district or system) fails to comply, the school district shall not be eligible for certain state funded education grants administered by the Department of Education until they comply with accounting and financial reporting standards required by GASB. The comptroller and the Commissioner of Education shall mutually agree to the categories of grants subject to this restriction. If a county highway department fails to comply, the comptroller and the Commissioner of Revenue shall agree on an amount whereby the funds that the county highway fund would otherwise receive from state gasoline tax proceeds as allocated pursuant to Section 67-3-901 shall be reduced. After such amount is agreed upon, the Department of Revenue shall make the reductions from the monthly allocations of gasoline tax proceeds to the county. The amounts so reduced shall be held in reserve by the Department of Revenue and allocated to the county upon the county becoming compliant as determined by the comptroller.

(B) The comptroller shall provide the local government a list of professional firms available to assist in implementation of the work plan. The local government shall provide funds for the cost of this assistance. If the local government fails to provide funds for the cost of this assistance, such cost shall become an outstanding legal obligation of the local government. If the local government fails to pay the cost, the state shall pay said cost and the local government shall be required to reimburse the state.

(C) In those county governments which fail to implement accounting and financial reporting standards required by GASB on or after the required implementation date of June 30, 2008, the comptroller shall review and evaluate the county's financial management system and make a recommendation to the county's legislative body on how to improve the financial management system to facilitate compliance with accounting and financial reporting standards. The county legislative body shall act upon the recommendation of the comptroller within ninety (90) days of notification.

(4) Local governments are encouraged to consider establishing an audit committee. The comptroller may require an audit committee be established in any local government in this state which:

(A) Is in noncompliance with the accounting and financial reporting standards required by GASB on or after the prescribed date of June 30, 2008; or


(B) Has recurring findings from the annual audit for three (3) or more consecutive years as determined by the comptroller to be a material weakness in internal control or material noncompliance under Government Auditing Standards.

The governing body of the local government shall create the audit committee. The audit committee members shall be external to management and may be members of the governing body or citizens from within the boundaries of the local government or a combination of both. Members of the audit committee shall be selected by the legislative body. The audit committee shall establish responsibilities and duties that are stated in a resolution approved by the legislative body. The responsibilities and duties, at a minimum, shall address financial and other reporting practices, internal control, compliance with laws and regulations, and ethics. The resolution creating the duties and responsibilities of the audit committee shall be submitted to the comptroller prior to approval by the legislative body. The comptroller shall review the proposed resolution and report back to the local government on whether the resolution follows recommended guidelines for an audit committee. The resolution adopted by the legislative body must conform to the report issued by the comptroller.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 5, 2005


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of May 2005


PHIL BREDESEN, GOVERNOR